

Service Date: September 12, 1997

DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA

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In the Matter of the Application of	)	
MONTANA WIRELESS, INC.	)	UTILITY DIVISION
for Arbitration of Contract Negotiations	)	DOCKET NO. D97.8.142
with U S WEST Communications, Inc.	)	
Pursuant to 47 U.S.C. § 252.	)	ORDER NO. 6012

**ORDER GRANTING MOTION TO DISMISS AND CLOSING DOCKET**

Background

1. Montana Wireless, Inc., (Wireless) filed a Petition on August 5, 1997, asking the Commission to arbitrate all unresolved issues in the interconnection negotiations between it and U S WEST Communications, Inc. (U S WEST) pursuant to §§ 251 and 252 of the Telecommunications Act of 1996.<sup>1</sup> Wireless simultaneously filed a request pursuant to Commission rule ARM 38.2.305 for a temporary partial waiver of ARM 38.5.4012, which sets forth the filing requirements for a request for Commission arbitration pursuant to § 252 of the 1996 Act.

2. Wireless's Petition represented that the parties had reached a fully negotiated agreement for wireline interconnection which was not likely to be executed prior to the expiration of time permitted by § 252 for requesting arbitration. Wireless further stated that U S WEST would not sign the agreement until its management reviewed the recent decision issued by the United States Court of Appeals for the Eighth Circuit in Iowa Utils. Bd., et al. v. Federal Communications Comm'n, \_\_\_ F.3d \_\_\_, slip op. in No. 96-3321 (and consolidated cases) (8th Cir., July 18, 1997), and if U S WEST subsequently found some of the provisions in the

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<sup>1</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (to be codified as amended in scattered sections of 47 U.S.C.).

agreement unacceptable after conducting this review, Wireless may have to begin negotiations anew.

3. In a duly noticed work session held on August 12, 1997, the Commission granted Wireless's motion to temporarily waive the requirements of ARM 38.5.4012(e)(f) and (g) for good cause shown. On August 29, 1997, the Commission received Wireless's Motion to Withdraw Petition for Arbitration, which states that the parties have now executed a fully negotiated agreement for interconnection of wireline services and that both wireless and wireless interconnection agreements will be submitted to the Commission for approval upon dismissal of the pending Petition for Arbitration.

4. The Commission granted Wireless's motion in a work session held on September 3, 1997.

Order

THEREFORE, based on the foregoing, IT IS ORDERED that Montana Wireless, Inc.'s Petition for Arbitration is DISMISSED and this Docket is closed.

DONE AND DATED this 3rd day of September, 1997, by a vote of 5-0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

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DAVE FISHER, Chairman

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NANCY MCCAFFREE, Vice Chair

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BOB ANDERSON, Commissioner

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DANNY OBERG, Commissioner

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BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson  
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.